

Neil D. Goldman, Esq. (VSB No. 18352)  
John P. Van Beek, Esq. (VSB No. 30897)  
Goldman & Van Beek, P.C.  
510 King St., Suite 416  
Alexandria, Virginia 22314  
(703) 684-3260  
(703) 548-4742 (facsimile)  
[ngoldman@goldmanvanbeek.com](mailto:ngoldman@goldmanvanbeek.com)  
[jvanbeek@goldmanvanbeek.com](mailto:jvanbeek@goldmanvanbeek.com)

Counsel for Sacco of Maine, LLC

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re: )  
                    )  
                    ) Case No. 08-35653  
Circuit City Stores Inc., et al., ) Jointly Administered  
                    ) Chapter 11  
                    ) Hon. Kevin R. Huennekens  
Debtors.         )  
                    )

---

**RESPONSE OF SACCO OF MAINE, LLC TO LIQUIDATING TRUST'S  
FORTY-FIRST OMNIBUS OBJECTION TO LANDLORD CLAIMS**

Sacco of Maine, LLC ("Sacco"), by and through its undersigned counsel, hereby opposes the Forty-First Omnibus Objection to Landlord Claims (the "Objection") (Docket No. 11852) filed by Debtor Circuit City Stores Inc. and its affiliated entities (collectively, the "Debtor") and the Circuit City Stores, Inc. Liquidating Trust (the "Liquidating Trust"). In the Objection, the Debtor seeks, with no support whatsoever, to reduce Sacco's claim (Claim Number 12315, the "Sacco Claim") based on the assertion that Sacco failed to mitigate its damages.

Following the rejection of the Lease, Sacco actively marketed the property which was the subject of the rejected lease for sale, and took a temporary lease for a specialty Halloween Store. There is, therefore, no basis for reducing Sacco's claim based on an alleged failure to mitigate.

Promptly following the recovery of possession of the property from the Debtor on February 23, 2009, Sacco placed the property on the market for sale with a reputable national

commercial real estate broker, CB Richard Ellis, The Boulos Company. Those efforts generated a letter of intent in May, 2009 (Exhibit 1), and a proposed purchase agreement in September, 2009 (Exhibits 2 and 2-A). A copy of the marketing materials generated during this process by the broker is attached as Exhibit 3. In addition, Sacco entered into a short term lease with a Halloween store (Exhibit 4) for the period August 25, 2009 through November 7, 2009 for an aggregate rent of \$18,000, from which a brokerage commission of \$3,000 was paid. Sacco recognizes that the Debtor is entitled to a credit of \$15,000 for this lease.

Ultimately, the sales effort was unsuccessful. As a result of the rejection of the Lease, Sacco did not have funds to pay the debt secured by the property, and the property was foreclosed by the lender, resulting not only in the loss of rents, but the loss by Sacco of its equity in the property.

The parties had previously agreed that the amount of the claim under 502(b)(6) was \$916,603.90 (Exhibit 5). Reducing this amount by the net sum of \$15,000 from the Halloween Store lease results in an allowable claim of \$901,603.90.

Undersigned counsel is the party with authority to discuss mitigation issues on behalf of Sacco.

WHEREFORE, Sacco respectfully requests that this Court enter an order overruling the Forty-First Omnibus Objection as to Sacco except to the extent of \$15,000, and allowing Sacco's claim in the amount of \$901,603.90.

Dated: Alexandria, Virginia  
June 26, 2012

Respectfully submitted,

/s/ John P. Van Beek

Neil D. Goldman, Esq. (VSB No. 18352)  
John P. Van Beek, Esq. (VSB No. 30897)  
Goldman & Van Beek, P.C.  
510 King St., Suite 416  
Alexandria, Virginia 22314  
(703) 684-3260  
[ngoldman@goldmanvanbeek.com](mailto:ngoldman@goldmanvanbeek.com)

Counsel for Sacco of Maine, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26th day of June, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Jeffrey N. Pomerantz, Esq.  
Andrew W. Caine, Esq.  
PACHUULSKI STANG ZIEHL & JONES, LLP  
10100 Santa Monica Boulevard  
Los Angeles, California 90067-4100  
[jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)  
[acaine@pszjlaw.com](mailto:acaine@pszjlaw.com)

Lynn L. Tavenner, Esq.  
Paula S. Beran, Esq.  
TAVENNER & BERAN, PLC  
20 North Eighth Street, 2nd Floor  
Richmond, Virginia 23219  
[ltavenner@tb-lawfirm.com](mailto:ltavenner@tb-lawfirm.com)  
[pberan@tb-lawfirm.com](mailto:pberan@tb-lawfirm.com)

/s/ John P. Van Beek  
John P. Van Beek